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Supreme Court, U.S.
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No. : 00-1301

IN THE

SUPREME COURT OF THE UNITED STATES

Jane Roe, II,

Petitioner,

v.

Aware Woman Center For Choice, Inc., a Florida corporation, Edward W. Windle, Jr., Patricia B. Windle, and William P. Egherman, M.D.,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

REPLY TO BRIEFS IN OPPOSITION

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MP

NOTE TO THE UNITED STATES SUPREME COURT OF RELATED PETITIONS ALREADY FILED WITH THE COURT:

Meredith T. Raney, Jr., v. Aware Woman Center For Choice, Inc., et al. Supreme Court no. 00-1268

Meredith T. Raney, Jr., v. City of Melbourne, Florida, Supreme Court no. 00-1350

Ray Sienkiewicz v. John McDougall, individually, et al., Supreme Court no. 00-1365

Ray Sienkiewicz v. Larry Hart, individually, et al. Supreme Court no. 00-1419

Ray Sienkiewicz v. John McDougall, individually, et al. Supreme Court no. 00-1498

ADDITIONAL APPEAL TO BE TAKEN

Ray Sienkiewicz was notified on March 26, 2001 that the district court had dismissed with prejudice the F.A.C.E. action against Larry Hart, individually, et al., which is the case from which the petition for writ of certiorari was brought in Supreme Court number 00-1419. It is expected that an appeal will be taken to the U.S. Court of Appeals and thereafter a petition for writ of certiorari to review the case will then be filed pursuant to Supreme Court Rule 11.

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REPLY TO DR. EGHERMAN

Jane Roe, II, applauds the rare courage of Dr. Egherman in joining with her to request that the Supreme Court issue a writ of certiorari to review this case, as a matter of great public importance justifying the variance from normal appellate practice.

That Dr. Egherman vehemently disagrees with Jane Roe, II's presentation of the facts is to be expected in a gruesome case of this sort.

Nevertheless, the joint request of these two opposing parties should suffice to establish the need for the extraordinary relief sought.

REPLY TO AWARE WOMAN CENTER FOR CHOICE

Like Dr. Egherman, the parties known collectively as "Aware Woman Center For Choice", have clearly demonstrated to the Supreme Court that it should issue a writ of certiorari to review this case. In Dr. Egherman's instance, he plainly stated that the Roe, II request should be granted. While Aware Woman Center For Choice takes the opposite position, the precedents and authority on which they rely show that Dr. Egherman and Jane Roe, II are entitled to issuance of the writ.

PUBLIC IMPORTANCE

The cases cited by Aware Woman Center For Choice on the question of public importance are *United States v. Nixon*, 418 U.S. 683 (1974) and *Dames & Moore v. Regan*, 453 U.S. 634 (1981) which involved charges of wrongdoing by our top federal officials. So, too, do the related cases.

The setting presented in the related cases of *Meredith T. Raney, Jr. v. Aware Woman Center For Choice, Inc., et al.*, Supreme Court number 00-1268 and *Meredith T. Raney, Jr. v. City of Melbourne, Florida*, Supreme Court number 00-1350 was used by our top federal officials as a model to prevent distraught young women from receiving the loving, lawful help of pro-life referral counselors. This was done for personal gain - whether political or economic or both - on behalf of the abortion industry.

This program was placed in effect all over this country by the United States Department of Justice: it unlawfully and corruptly procured local police as nothing more than vicious attack dogs to prevent distraught young women from receiving vital help and information from pro-life referral counselors. The result has been innumerable more abortions. There has also been much felonious harm to women, including death.

One such death, from mistreatment at the Azima abortion clinic in North Ft. Myers, Florida last August, is an apparent reason for the unfortunate decision in *Meredith T. Raney, Jr. v. Aware Woman Center For Choice, Inc.*, 224 F.3d 1266 (11th Cir. 2000). That decision in turn caused the miscarriage of justice in *Raney v. City of Melbourne*, ___ F. 3d ___ (11th Cir. 2000), and has been the catalyst for all of these related petitions. The guilty parties appear to include a former president and attorney general of this country, as well as a present member of the United States Court of Appeals to which all of these cases were initially taken.

Ray Sienkiewicz v. Larry Hart, individually, Charles Wilson, individually, Janet Reno, individually, William J. Clinton, individually, and Jill Babyack, Supreme Court number 00-1419, is a corollary to the cases of *Ray Sienkiewicz v.John McDougall, individually, et al.*, Supreme Court number

00-1365, and *Ray Sienkiewicz v. John McDougall, individually, et al.*, Supreme Court number 00-1498. The *Sienkiewicz* cases are all the result of the civil and criminal wrongdoing apparently orchestrated by our top government executives with the assistance of one who is now an appellate judge. The criminal liability for these respondents may be life in prison for felony murder.

Thus, the threshold for a Rule 11 case review by the United States Supreme Court has been crossed by *Jane Roe, II*. The *Nixon* (*supra*) and *Regan* (*supra*) decisions show this to be so. Our highest former executive officers and an appellate judge now on the federal bench stand accused of barbaric treatment of millions of young pregnant women trying to cope with crisis pregnancies. The delay by the Court of Appeals in ruling on this case may well be linked to that wrong-doing. This is a case of imperative public importance justifying deviation from normal appellate practice and requiring immediate determination in this Court.

ANONYMITY

Anonymity is Privacy's cloak.

Here there is no public outcry that Jane Roe, II be stripped of her cloak. That demand comes solely from cruel and arrogant parties who know that they will be able to evade justice for their awful crime if the order below is allowed to stand.

Jane Roe, II was already worried that day in Melbourne, there in the abortion facility featured in *Madsen v. Women's Health Center, Inc.*, 114 S.Ct. 2516 (1994). She could tell at the start that the abortionist was not going to perform the abortion correctly. She ordered him to stop. Instead she was then held on the table by four assistants after which the

abortionist inserted some instrument - against her will - into her vagina and proceeded to slash her colon and her uterus. Her degradation was equal to or worse than rape which was described in *Coker v. Georgia*, 97 S.Ct. 2861 (1977).

There, this Court described such horrors as follows:

> It is highly reprehensible, both in a moral sense and in its almost total contempt for the personal integrity and autonomy of the female victim and for the latter's privilege or choosing those with whom intimate relationships are to be established. Short of homicide, it is the "ultimate violation of self". Page 2869 .

Later , this Court discussed the nature of decisions made by women about abortion in cases such as *Thornburg v. American College of Obst.*, 106 S.Ct. 2169 (1986), saying at page 2181:

> The decision to terminate a pregnancy is an intensely private one that must be protected in a way that assures anonymity.

Several years later, the *Thornburg* (*supra*) rulings were reviewed in *Planned Parenthood v. Casey*, 112 S.Ct. 2791 (1992), when this Court stated at page 2816:

> Although we must overrule those parts of *Thornburg* and *Akron I* which, in our view, are inconsistent with *Roe*'s statement that the State has a legitimate interest in promoting the life or potential life of the unborn . . ., the central premise of these cases represents an unbroken commitment by this Court to the essential holding of *Roe*.

Earlier in the *Casey* (*supra*) decision, this Court had reaffirmed the intimate nature of abortion:

> These matters, involving the most intimate and personal choices a person may make in a lifetime, choices central to personal dignity and autonomy, are central to the liberty protected by the Fourteenth Amendment. Page 2807.

Thus, such injury as was suffered by Jane Roe, II, in an abortion clinic, is a matter of a highly sensitive and personal nature which insures a young woman the anonymity guaranteed by the U.S. Court of Appeals, Eleventh Circuit, in *Doe v. Frank*, 951 F.2d 320 (11th Cir. 1992), which listed several circumstances permitting the use of anonymity in the course of litigation.

One of the several circumstances in which a plaintiff may retain her anonymity in "*Doe*" cases are those involving "information of the utmost intimacy." , *Doe v. Frank*, (*supra*) at page 323. It is impossible to imagine a situation which demands anonymity more than the case at hand, even though the respondents obviously believe themselves to be above the law.

And, contrary to Aware Woman Center For Choice's inference, there is no immunity in 18 U.S.C. §248 for abortion clinic personnel. They, too, can be sued for violating F.A.C.E. This was done in *Greenhut v. Hand*, 996 F. Supp. 372 (D.N.J. 1998), where a clinic worker was sued successfully by a pro-life referral counselor who had been threatened with murder for helping women in the worker's abortion facility.

Anonymity was allowed in the case of *Roe v. Little Company of Mary Hospital*, 800 F.Supp. 620 (N.D. Ill. 1992),

where the plaintiff claimed to have been infected with the HIV virus. Jane Roe, II acknowledges that cases such as hers and *Little Company of Mary Hospital*, (*supra*), require some extra effort on the part of the participants; however, this Court in *Richmond Newspapers v. Virginia*, 448 U.S. 555, 100 S.Ct. 2814, advised the litigants that public trials on rare occasions may require some modifications by the trial court. Here Jane Roe, II is not seeking to exclude the public from her civil trial: she seeks only to preserve her anonymity.

In the case of *Adams v. Family Planning Assoc. Med. Group, Inc.*, 733 N.E. 2d 766 (Ill. App. 2000), the thirteen year old child failed to insist on anonymity for the simple reason that she had been killed in an "assembly line" abortion. The wrongful death action was brought by her personal representative. This little girl's cloak of anonymity is buried with her in her untimely grave.

Yet, while one is still alive, that right may be waived. Apparently in *Greene v. Legacy Emanuel Hospital and Healthcare Center*, 997 P.2d 265 (Or. App. 2000), the abortion clinic victim chose to waive her right to anonymity at the start of her litigation. The decision to do so was hers - and hers alone. The same can be said for Norma Mc Corvey (*Jane Roe*) and Sandra Cano (*Mary Doe*).

Many years after their cases, *Roe v. Wade*, 35 L. Ed. 2d 147 (1973) and *Doe v. Bolton*, 410 U.S. 179 (1973), became the law of the land, these two women chose to reveal their true identities. Both women have renounced their former roles in abortion jurisprudence and have publicly repented of the evil to which they were a part. No one, though, begrudged them the right to maintain their anonymity for as long as they wanted.

Here the objection to anonymity comes only from those

seeking shelter from Justice's wrath. Aware Woman Center For Choice knows the true identity of this young victim. They only seek to drive her from the federal courts by their judge-approved threat to strip her of her privacy and to force her once again to suffer grievous shame and embarrassment. Without the intercession of this Court, they will succeed in doing so.

MOTIVE

Jane Roe, II expects that later discovery in this cause will disclose all or some of the following F.A.C.E. counts:

1. Jane Roe, II was unlawfully prevented from leaving the Aware Woman facility because she had been receiving reproductive health services there.

2. Jane Roe, II was unlawfully prevented and physically obstructed in the Aware Woman facility because the respondents did not want her to receive reproductive health services, which included counseling and referral information, from the rescue squad.

3. Jane Roe, II was unlawfully prevented from leaving the Aware Woman facility because the respondents wanted to force her to thereafter obtain reproductive health services from them.

4. Jane Roe, II was unlawfully prevented from entering another facility because the respondents did not want her to receive reproductive health services there.

All of the foregoing possible counts may be readily deduced from the present pleadings.

Jane Roe, II has alleged in her complaint that the respondents intentionally and unlawfully violated F.A.C.E. At this point she is uncertain of exactly what the various participants had in the way of motives. The U.S. Court of Appeals in *United States v. Dinwiddie*, 76 F. 3d 913 (8th Cir. 1996), discussed the motive requirement of F.A.C.E., saying at page 922:

> FACE's motive requirement . . . limits the statute's application to those who engage in proscribed conduct "because [the victim] is or has been, or in order to intimidate [the victim] from, obtaining or providing reproductive health services . . ." 18 U.S.C. §248(a)(1).

Thus any or all of the above four possible counts will satisfy the motive requirement of F.A.C.E. Discovery will provide the definitive answer. In the meantime, respondents have been put on fair notice about Jane Roe, II's claim.

This Court in *Conley v. Gibson*, 355 U.S. 41 (1957), ruled that a complaint such as the one filed by Jane Roe, II should not be dismissed. At page 103, it was held:

> [A]ll the Rules require is "a short and plain statement of the claim" that will give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests... Such simplified "notice pleading" is made possible by the liberal opportunity for discovery and the other pre-trial procedures... Following the simple guide of Rule 8 (f) that "all pleadings shall be so construed as to do

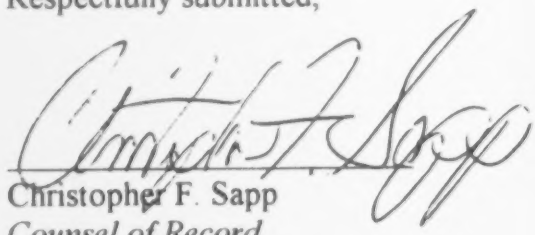
> substantial justice", we have no doubt that petitioners' complaint adequately set forth a claim and gave the respondents fair notice of its basis.

Thus, Jane Roe, II's complaint does state a cause of action.

CONCLUSION

Jane Roe, II, respectfully requests that this Court consider the need for privacy on the part of young women in all parts of America. They should not be given over to degradation and abuse with no hope of Justice. Without the cloak of anonymity, a great many of them will be fair game for sexual abuse and for forced abortions. Accordingly, Jane Roe, II believes that the writ of certiorari should be issued. She is joined in that request by one of the respondents, William P. Egherman, M.D.

Respectfully submitted,



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